THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18962 OF 2006

DATED: 09.11.2006

BETWEEN:

M.Sudha

… petitioner

And

The Presiding Officer and
Assistant Director of Agriculture,
Mahabubabad, Warangal district

And others

… Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18962 OF 2006

ORDER:

The writ petition is filed for a writ of mandamus declaring the inaction of the 1st respondent in not passing the final orders pursuant to the show cause notice dated 26.7.2006 in R.C.No.A/Ele/20/2006 as illegal, arbitrary and contrary to the provisions under A.P.Panchayat Raj Act and Rules framed thereunder vide G.O.Ms.No.173 of A.P.Panchayat Raj and Rural Development (Election Rules) Department, dated 10.5.2006 and consequently direct the respondents 1 and 2 to pass the final order pursuant to the show cause notice dated 26.7.2006 in R.C.No.A/Ele/20/2006 and pass such other order.

Heard Sri A.Prabhakar Rao, the counsel representing the writ petitioner and Sri V.V.Prabhakar, the counsel representing R1 and R.2 and Sri venkateshwar Reddy, the counsel representing R-3 to R-7.

It is stated that the election to 29 Mandal Parishad Constituencies of Mandal Parishad, Mahabubabad Mandal, Warangal district, were held and results are declared. The 1st respondent convened a special meeting for election of Co-option Member, President and Vice-President on 11.7.2006. Since number of members attended to the said meeting have not satisfied the corum consequently the meeting was adjourned to 19.7.2006. The District President Sri Gandra Venkata Ramana Reddy appointed one Sri Ajay Kumar as a party whip on 1.7.2006. Since the meeting did not take place as scheduled and was postponed to 19.7.2006, the District Party

President appointed the petitioner as a party Whip on 18.7.2006 and his appointment as a party whip was duly communicated to the 1st respondent. The petitioner, in accordance with instructions of the Congress Party, issued Whip to the 17 MPTC members who are elected on the Congress Party ticket to vote in favour of Sri Banoth Chimna as President, Mandal Parishad, Mahabubabad, Warangal and Sri Gatla Veera Reddy as a Vice President. In the special meeting scheduled to be held on 19.7.2006, the respondents 3 to 7 refused to receive the party whip issued by the petitioner.

It is further stated that in special meeting held on 19.7.2006 for election of President and Vice President the respondents 3 to 7 had exercised their franchise in favour of one Sri Banoth Kishan as a President and Banoth Badru as a Vice President in disobedience of party whip, the petitioner submitted a representation on 21.7.2006 to the 1st respondent with a request to pass orders disqualifying the respondents 3 to 7 to continue as Mandal Parishad Territorial Constituency member on the ground that they disobeyed the party whip. In pursuance of the representation dated 21.7.2006 submitted by the petitioner, the first respondent issued show cause notice dated 26.7.2006 to the respondents 3 to 7 calling explanation from them as to why they should not be declared to have ceased to hold the office of M.P.T.C. member. The 1st respondent in pursuance of the representation of the respondents 3 to 7 furnished with whip proceedings to the respondents 3 to 7 to enable them to give effective explanations vide proceedings dated 2.8.2006. The respondents 3 to 7 submitted their explanations dated 13.8.2006 to the 1st respondent herein.

It is further stated that the first respondent having received the explanations from the respondents 3 to 7 did not pass final orders. The 1st respondent being under influence of the respondents 3 to 7 is

not passing the final orders declaring the respondents 3 to 7 have ceased to hold office of M.P.T.C. member as they disobeyed the whip issued by the congress party. The petitioner submitted a representation to the 2nd respondent herein requesting to take suitable steps for passing the appropriate orders duly disqualifying the respondents 3 to 7 as a M.P.T.C. members. The Additional District Election Authority and Chief Executive officer, Zilla Parishad, Warangal issued proceedings dated 24.7.2006 directing the 1st respondent to intimate him the action taken for declaring the respondents 3 to 7 have ceased to hold office of the M.P.T.C. member.

It is also further stated that the first respondent is the competent authority under the provision of A.P.Panchayat Raj Act and Rules framed in G.O.Ms.No.173, Panchayat Raj and Rural Development (Election Rules) Department, dated 10.5.2006 to take up proceedings of disciplinary action against the members who exercised their franchise in disobedience of party whip issued by the recognized political party duly declaring the members that they disqualified to continue as a members of M.P.T.C./Z.P.T.C. as the case may be. The first respondent being under the influence of respondents 3 to 7 is not passing final orders. The first respondent having found in special meeting held for election of President and Vice President, that the respondents 3 to 7 voted in disobedience of party whip issued by the petitioner on behalf of Indian National Congress, the respondent being authority conferred with power under the statute and Rules framed thereunder is expected to pass final orders declaring the respondents 3 to 7 have ceased to hold office of M.P.T.C. members of Mandal Parishad, Mahabubabad.

The main grievance of the writ petitioner is that though show cause notice was issued and the explanation had been submitted, the first respondent is not passing any orders in pursuance thereof. It is

needless to say that the first respondent to pass appropriate orders in the light of the facts which had been narrated above.

In view of the same, the writ petition is disposed of directing the first respondent to pass appropriate orders taking into consideration the show cause notice and the explanation submitted by the contesting respondents, in accordance with law, as early as possible preferably within a period of two months from the date of the receipt of a copy of this order.

The writ petition is accordingly disposed of. No order as to costs.

09.11.2006.

Note:
Issue c.c. in three days.
B/o.
mdaa